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United States Senate

COMMITTEE ON SMALL BUSINESS

WASHINGTON, DC 20510-6350

April 19, 1999

BY FACSIMILE (202/622-5756)
ORIGINAL BY U.S. MAIL

The Honorable Charles O. Rossotti
Commissioner
Internal Revenue Service
1111 Constitution Avenue, N.W.
Washington, DC 20224

Dear Commissioner Rossotti:

Last week, I received copies of the draft third-party notification letters under consideration by the Internal Revenue Service (IRS). I appreciate your efforts to revise the original letters on an expedited basis. Although these draft letters have not been finalized, I am very concerned that they still do not reflect the letter and spirit of new section 7602(c) of the Internal Revenue Code. In addition, they appear to be at odds with your very encouraging statements to taxpayers during the last two months that these letters will be corrected to protect taxpayers' rights.

At the outset, let me again thank you for directing IRS personnel to work with the taxpayer in the first instance to resolve open issues. In addition, I appreciate the fact that a third-party letter will be sent only if it is determined that necessary information cannot be obtained directly from the taxpayer. Unfortunately, the draft letters fail to reflect each of your policy directives. As a result, taxpayers are left wondering whether they overlooked a written inquiry or misunderstood an agent's request leading to their failure to supply some piece of information. Taxpayers should not be left in the dark. If they failed to make their bank statement available, tell them that the IRS will have to contact their bank if they do not provide it within a set period of time. If they supplied everything and the IRS still needs to verify it, tell them what information needs to be verified and by whom.

This leads to my second, and most significant concern — none of the letters gives "reasonable notice in advance to the taxpayer" as required by the statute. As noted in the IRS' March 2, 1999, news release: "In last year's IRS Restructuring and Reform Act, Congress required the agency to provide taxpayers reasonable notice before contacting outside parties about the person's tax situation." Congress did not enact this provision simply to highlight that the IRS has long been able to contact outside parties. It was enacted to provide taxpayers with

reasonable notice so they could minimize the damage that these contacts can cause to business and personal relationships when an IRS agent starts asking questions of outside parties.

This is the fundamental premise for this taxpayer protection, and no letter issued without "reasonable notice in advance to the taxpayer" will ever be sufficient. As the Chairman of the Senate Committee on Small Business, I have heard of too many instances in which a business' credit has been jeopardized, clients have been lost, and vendors have been scared away, all because the IRS started asking questions to the business' bank, customers, and suppliers. Taxpayers have a right to protect their businesses and reputations, especially when they have been forthcoming with requested information and the IRS simply needs to verify it.

A positive addition to the draft letters is the language alerting taxpayers that they will receive a list of persons the IRS has contacted at least annually and that they have the right to request such a list at any time. These provisions will enable taxpayers to protect their rights further by monitoring whom the IRS ultimately contacts. But these *after-the-fact* rights are wholly insufficient replacements for the "reasonable notice in advance to the taxpayer" required by the statute. Simply put, by the time the taxpayer learns whom the IRS contacted *after the fact*, the damage will already be done.

Moreover, without advanced specific notice, taxpayers and practitioners may turn to the after-the-fact option and flood the IRS with repeated requests for such a list. Do we really want taxpayers or their representatives to call an agent handling the case on a daily basis to ask whether outside parties have been contacted? Should this be a small business owner's only option for salvaging what is left of a business relationship? I am confident that you will agree that the answer to both these questions is "no."

The IRS has an exceptional opportunity with these third-party notification letters to demonstrate its new dedication to taxpayer service and commitment to respecting taxpayers' rights while at the same time balancing its enforcement role of collecting taxes. I urge you to seize this opportunity. Tell the taxpayers receiving these letters what information is missing, whom the IRS needs to contact, and a time frame in which the outside parties will be contacted. Since the vast majority of cases never involve third-party contacts, providing this kind of common-sense information should not be overly burdensome to your agency.

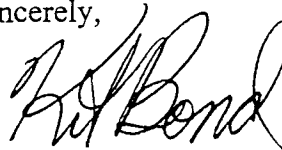
I recognize that the IRS has an obligation to enforce the tax laws and that sometimes requires the involvement of parties other than the taxpayer. But a balance has to be struck between those considerations and damage to a taxpayer's reputation and relationships. That balance is reflected in section 7602(c), if the IRS will simply implement this taxpayer protection as it was intended.

As the final third-party notification letters are completed by the various functions within the IRS, I hope they will reflect the changes I have recommended. If you have any questions, please contact me or Mark Warren, the Committee's Tax Counsel, at (202) 224-5175. We are

ready and willing to work with you on these letters and would be happy to discuss any of the foregoing comments in more detail.

Thank you in advance for your continued assistance in assuring that this taxpayer right is implemented to the benefit of the citizens it is designed to protect.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris Bond", written in a cursive style.

Christopher S. Bond
Chairman

cc: Mary Turville, Office of Public Liaison
and Small Business Affairs
W. Val Oveson, National Taxpayer Advocate